

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

Marrow  
PL-I  
31338

**FILE:** B-218189.2  
**MATTER OF:** Solar Flame, Inc.

**DATE:** May 31, 1985

**DIGEST:**

Protest will not be considered where protester fails to file comments on agency report or to notify GAO within 7 working days of date agency report is due to be filed. that report was not received.

On February 14, 1985, Solar Flame, Inc. (SFI) protested against the award of a contract to True Gold, Inc. by the Department of the Army (Army) under request for proposals No. DAAJ09-84-R-0492.

By letter dated February 26, 1985, we acknowledged SFI's protest and cautioned the company that under our Bid Protest Regulations, 4 C.F.R. § 21.3(e) (1985), a protester must submit written comments on the agency's report concerning the protest or a statement that the protest should be decided on the existing record within 7 working days following receipt of the report. We received the Army's report on April 2, 1985. On April 12, 1985, we dismissed the protest because SFI failed to respond to the contracting agency's report within the time period required by the above regulation.

By letter dated April 22, 1985, which we received on April 26, 1985, SFI submitted comments on the Army's report. SFI's counsel advises that the comments were submitted within 10 days of counsel's receipt of the report. Although it is difficult to ascertain the exact date that SFI received the report, our February 26 letter advised SFI that it should receive the report by April 2, 1985, that we would assume it would receive the report when we received ours and that unless we heard from the firm by the 7th working day thereafter, we would close our file.

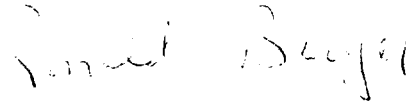
Since SFI did not notify us within 7 working days from April 2 as to whether it received the report or file

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comments or a statement requesting the case be decided on the existing record, the file will remain closed. See Air Technology, Inc., B-218164, April 12, 1985, 85-1 C.P.D. ¶ 423.



Ronald Berger  
Deputy Associate General Counsel